

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

MEDISIM, LTD.,)	
)	
Plaintiff,)	
)	
v.)	
)	10-CV-2463(SAS)
BESTMED LLC,)	
)	
Defendant.)	
)	

**MEDISIM’S OBJECTIONS TO BESTMED, LLC’S
PROPOSED VERDICT FORM**

Plaintiff, Medisim Ltd., respectfully submits the following objections to Defendant BestMed LLC’s proposed verdict form:

Medisim believes that the Court should adopt its proposed verdict form. Medisim objects to BestMed’s proposed verdict form as it contains superfluous language and is likely to confuse the jury. *Cf. Frederic P. Wiedersum Assocs. v. Nat’l Homes Constr. Corp.*, 540 F.2d 62, 66 (2d Cir. 1976). For example, question 12 of BestMed’s proposed verdict form states: “If you find that Medisim is entitled to damages because BestMed has engaged in unfair competition under New York law (‘Yes’ to question 9), what amount of damages do you award to Medisim?.” However, question 9 of BestMed’s proposed verdict form concerns the written description requirement. Similarly, question 15 of BestMed’s proposed verdict form states: “If you find that BestMed has been unjustly enriched (‘Yes’ to question 12), what is the amount of profits that BestMed has unjustly received? ? [sic]” However, question 12 of BestMed’s

proposed verdict form concerns the amount of damages that the jury intends to award to Medisim on its New York unfair competition claim.

Dated: January 16, 2013

By: /s/ Keith J. McWha

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